

The CASE of JOHN DIGBY Esq;

MR. Digby having given to Sir Kenelme Digby his late Father of *Harstrop Park* in *Com. Bucks*, which was his own inheritance, and for which his said Father received 5000. l. and was worth much more, the said Sir Kenelme Digby in consideration thereof, by an agreement under his Hand and Seal dated _____ did ingage and promise, that besides the settling of his Estate upon his said Son, he would secure unto him a part of his Estate, as should be worth unto him at least as much as the said Park.

That the said Sir Kenelme the better to promote the marriage of his said Son with the Lady *Katherine Howard*, did by several Letters and Promises, engage to make his Sons Estate worth 3. or 4000. l. *per annum* at present, and to settle his Estate upon him after his decease; whereupon the said marriage took effect.

Notwithstanding which: and that the said Estate was entailed upon Mr. Digby, the said Sir Kenelme reposing a great trust in *Charles Cornwallis* Esq; now Member of Parliament, did settle his Estate upon him of 2000 l. *per annum* in trust for the said Sir Kenelme, and afterwards the said Sir Kenelme and Mr. Cornwallis conveys the same to *Nicholas Hollis* and *George Holman* for the use of the said Mr. Cornwallis, but upon trust that he should apply the Rents of the said Lands, in discharge of several Mortgages made thereof, by Sir Kenelme Digby and other his Debts.

That in breach of trust Mr. Cornwallis hath received the Rents, and profits to his own use, and not paid the Mortgages, but suffered their Mortgages to become forfeited, whereupon they have entred, and are now in possession, and let the Estate at an undervalue to Mr. Digbys great prejudice.

That the said Mr. Cornwallis being made sole Executor to Sir Kenelme in trust for Mr. Digby, hath also possessed himself of his personal Estate to a very great value, and sold away the Mannor of *Somerham* at a very great undervalue for 4000 l. without giving an account thereof. And hath concealed from Mr. Digby several concerns relating to his Fathers Estate, of many thousand pounds value particularly one of 2500 l. which Mr. Digby hath late accidentally discovered, and had been also utterly lost but for his Majesties gracious favour therein: and refuseth to give an account of several Lands bought by Sir Kenelme of the Duke of *Buckingham* for which he gave 2000 l. many years ago.

That Mr. Digby being long put off any account or satisfaction by the continual fair promises of Mr. Cornwallis, to clear the said Estate from Incumbrances in a short time, and no performance being made, was at last enforced to exhibit his Bill in Chancery for his relief in the premisses, and offered to pay off all Sir Kenelmes Debts, and to discharge Mr. Cornwallis from the trust aforesaid, upon a reconveyance from the said Mortgagees, and an account from Mr. Cornwallis which he absolutely refused without a great gratuity, and other conditions which Mr. Digbys Council could not in prudence advise him to. And the said Mr. Cornwallis thereupon in time of prorogation set out all process of contempt to a commission of Rebellion, before he put in his answer which is very insufficient, but Mr. Digby cannot proceed against him, for any better account or satisfaction by reason of his privilege.

But only intended to move against the said Mortgagees to have a Reconveyance from them, upon payment of their money, interest and costs, and the reasons inducing him thereunto were for that the Estate is let at an undervalue, Mr. Cornwallis having abated the Rents 600 l. *per annum*, so that the payments going out of the Estate, are more at present then the same are let for, and Mr. Digby hoped to improve the same, and there is no prejudice to Mr. Cornwallis therein.

1. For that he has in his hands many thousand pounds more then is due unto him.
2. For that he may have the same equity against Mr. Digby, as against Mortgagees in case he can pretend to any.
3. For that he is a great Debtor to Mr. Digby as Executor to Sir Kenelme, for a Debt owing by Sir Kenelme to his said Son of several thousand pounds.

But this honourable House upon some information, that the said Motion would tend to prejudice the interest of Mr. Cornwallis, have ordered that no proceedings be had in the said cause during this Sessions.

Which Mr. Digby hopes for the Reasons aforesaid may be discharged, and that he may be left at liberty to proceed for his relief against the said Mortgagees who claim no privilege.



